

REMARKS

Claims 15-21 and 31-39 are pending in the application, of which all were rejected by the Office Action of May 8, 2007. The Office Action states that claims 16 and 38 would be allowable under conditions stated within the Office Action. Reconsideration of the Claim Rejections is requested in view of the following Specification amendment, Claim amendments, and Remarks.

Independent claim 15 is herewith amended.

The Final Office Action states that claims 16 and 38 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. Applicants herewith include new claim 40 presented in independent form, as it was formerly the allowable dependent claim 16. Also, new claim 41 is presented in independent form, as it was formerly the allowable dependent claim 38. No new matter has been added.

Claim 21 is amended to correct the double occurrence of "ranges from." Claim 34 is amended to include an appropriate period. Claims 1-14 and claims 22-30 (which previously appear in a withdrawn status) are herewith canceled.

A telephonic Examiner Interview was conducted on July 25, 2007 including Applicants' Patent Attorney Jeffrey Wax and Examiner Justin Krause, in regard to the above-referenced application. No exhibits were utilized during the interview.

Applicants' Patent Attorney Jeffrey Wax inquired whether the 35 U.S.C. 112, 2nd paragraph objections of the previous Office Action were overcome, since these objections were previously addressed by Applicants' previous Office Action response, but not restated in the outstanding Final Office Action (although referred to in the outstanding Final Office Action with regard to allowable subject matter). Examiner Krause stated that the 35 U.S.C. 112, 2nd paragraph objections listed in the Office Action dated 8/31/06 were overcome, and any reference to these objections in the May 8, 2007 Final Office Action were a typographical error. Specifically, one error appears on page 8 of the May 8, 2007 Final Office Action which states that claims 16 and 38 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph.

Per Examiner Krause, claims 16 and 38 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Also, the terms “reservoir,” “plenum” and “shield” were briefly discussed in comparing Applicants’ claim 1 with the Office Action cited reference Titcomb (U.S. Patent 6,315,452).

Drawings Objection as to FIG. 3

Fig. 3 is objected to as the Examiner states that Fig. 3 shows discrepancies as compared with Fig. 2.

In response, Applicants amended the Brief Description of Fig. 3 in the previous Office Action Response, and herewith again amend the Brief Description of Fig. 3 in the present Response. Applicants submit that these amendments make clear that there is a sectional view change between the Fig. 2 and Fig. 3. Further, these amendments state that Fig. 3 does not illustrate features already and sufficiently shown in Fig. 2 including a top cover, stator winding, magnets, and baseplate.

Applicants choose not to amend the drawing of Fig. 3, because to do so could obscure the invention details in Fig. 3 including thrust plate pumping grooves, example pressures, fluid flow direction and pumping direction. As an example, the grooves shown in Fig. 2 are alternatively illustrated in Fig. 3 by arrows to more clearly illustrate the pumping direction as described in Fig. 3.

Claims Rejected under 35 U.S.C. § 102(b)

The Office Action rejects claims 15, 18-20, 31-36 and 39 under 35 U.S.C. 102(b) as being anticipated by Titcomb (US Patent 6,315,452). Applicants traverse the claims rejection. In order to serve as a §102 reference, the reference must teach every aspect of the claimed invention either explicitly or impliedly (MPEP §706.02). The cited reference Titcomb has not done so for at least the following reasons.

The Office Action cited Titcomb reference:

Regarding Applicants’ independent claim 15, the Office Action states that Titcomb discloses a shield affixed to a stationary component, defining a reservoir with the outer component. The

Office Action further states that Titcomb discloses a recirculation plenum joining the reservoir, the first fluid passageway and the second fluid passageway. The Office Action further states that Titcomb discloses a shield affixed to a stationary component defining a reservoir. Applicants traverse the rejection.

In contrast to Applicants' claimed invention (claim 15), Titcomb does not utilize a reservoir, at least the type as those skilled in the art would consider a reservoir. However, in order to more clearly define Applicants' claim 15 reservoir, Applicants amend claim 15 to recite that the reservoir is a receptacle for fluid volume changes within the motor and for any air from the fluid. Applicants further amend claim 15 to recite that the fluid enters and exits the reservoir at the recirculation plenum.

The passages 190 described by Titcomb are not a reservoir as the type claimed by Applicants, but rather interconnected axial passageways where fluid passes.

Further, in contrast to Applicants' claimed invention (claim 15), Titcomb does not disclose a recirculation plenum joining the reservoir (emphasis added), the first fluid passageway and the second fluid passageway. The interconnected axial passageway that the Office Action refers to does not join a reservoir as claimed in Applicants' claim 15, but is instead situated between two radial passageways.

Further, in contrast to Applicants' claimed invention (claim 15), Titcomb does not disclose a shield affixed to a stationary component defining a reservoir. Instead, the component 160 is a shaft cap that, with surface 152 forms a sleeve thrust bearing layer filled with fluid to support the sleeve with the shaft. As stated in Titcomb:

... upper and lower annular surfaces 152a-b (FIG. 2D) cooperate respectively with the mating portion 158a of outer fixed-shaft surface 116 (FIG. 2A) and the mating portion 158b of the upper fixed shaft cap 160 (FIG. 2E) to form therebetween the two sleeve thrust-bearing layers 162a-b (FIG. 1), which are filled with a quantity of lubricating fluid to hydrostatically support the nearly frictionless rotation of rotatable bearing sleeve 146 in axial alignment with inner fixed-shaft surface 118. (Titcomb, col. 7, lines 13-22).

Claims Rejected under 35 U.S.C. § 103(a)

The Office Action rejects claims 17, 21 and 37 under 35 U.S.C. 103(a) as being unpatentable over Titcomb (US Patent 6,315,452). Applicants traverse the claims rejection to show that obviousness is not established. Features of Applicants' claimed invention are not taught or suggested by the reference. Further, there is no suggestion or motivation either in the reference or in knowledge generally available to one of ordinary skill in the art to modify the reference.

Claims 17, 21 and 37 depend from claim 15. It is submitted that Titcomb teaches away from Applicants' elements of claim 15, and in particular, the reservoir, recirculation plenum and shield. Instead, Titcomb describes interconnected fluid passageways where all fluid passes when the motor rotates. Therefore, it is submitted that the claims 17, 21 and 37 overcome the 35 U.S.C. 103(a) rejection.

Dependent Claims 16-21 and 31-39

It is submitted that Applicants' dependent claims 16-21 and 31-39 are allowable for at least the reasons stated above with regard to the independent claim 15. Further, Applicants' dependent claims, recite further features and combinations of features that are patentably distinct and not taught or suggested by Titcomb.

CONCLUSION

In view of the foregoing, it is submitted that claims 15-21 and 31-39, as amended, and new claims 40 and 41, patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If the Examiner believes a telephone conference would be useful in moving the case forward, please contact the undersigned at Tel. (310) 312-1500.

Respectfully submitted,
THE WAX LAW GROUP

Dated: August 8, 2007

By: Jeffrey S. Wax

Jeffrey S. Wax
Reg. 51364
Tel. (310) 312-1500

Jeffrey S. Wax
Wax Law Group
2118 Wilshire Boulevard
Suite 407
Santa Monica, California 90403

Tel. (310) 312-1500

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 8, 2007.

Virginia Wilson
Virginia Wilson

8.8.2007
August 8, 2007